



the latter situation, the plaintiff must show a substantial probability of prevailing on the issue of forfeiture and a similar probability that failure to enter the order will result in destruction, removal or other unavailability of the property, which risk outweighs the hardship imposed on any party. 18 U.S.C. § 983(j)(1)(B). Moreover, this showing must follow notice to, and an opportunity to be heard by, persons appearing to have an interest in the property. *Id.* The statute imposes none of these requirements if the order is issued after the complaint is filed. *Id.* § 983(j)(1)(A).

Here, the plaintiff has filed its Complaint (doc. 1), but it acknowledges that it has neither posted notice of the Complaint on the property nor served notice and a copy of the complaint on the owners. (Doc. 2, Exh. 1 at 1.) A sister court has concluded that the requirements of Section 983(j)(1)(B) apply in such a situation. *United States v. Real Property Located at 11211 East Arabian Park Drive*, 379 F. Supp.2d 1058, 1062-64 (D. Ariz. 2005). The Court does not agree. As reasonable as it might appear to provide a property owner notice of a civil forfeiture action before showing up on his doorstep with a writ of entry to inspect and appraise the property, the language of Section 983(j)(1) appears unambiguously not to require such notice so long as the writ issues after the complaint is filed. This Court, of course, is not empowered to interpret an unambiguous statute other than as it is written. *See generally United States v. Melrose East Subdivision*, 357 F.3d 493, 498-99 (5<sup>th</sup> Cir. 2004) (no pre-restraint hearing is required under subsection (j)(1)(A) when a restraining order is “requested contemporaneously with the filing of the forfeiture complaint”).

For the reasons set forth above, the Motion for a Writ of Entry (doc. 2) is **granted**. The Writ will be issued forthwith.

DONE and ORDERED this the 27th day of February, 2008.

s/ WILLIAM H. STEELE  
UNITED STATES DISTRICT JUDGE